


Page 1 of 4 – U.S. Department of Education, Office for Civil Rights Discrimination  
Complaint Form, Consent Form, and Complaint Processing Procedures

**DISCRIMINATION COMPLAINT FORM**  
**to the**  
**United States Department of Education**  
**Office for Civil Rights**

1. Name of person filing this complaint:

**Last Name, First, Middle** Swain, Lauren  
**Address:** 8532 N. Ivanhoe St., #208  
**City, State, Zip Code:** Portland, OR 97203  
**Home/Work Telephone:**   
**Email Address:** lauren@paulsouthwick.com

2. Name of person discriminated against (if **other** than person filing). If the person discriminated against is age 18 or older, we will need that person's signature on this complaint form and the consent/release form before we can proceed with this complaint. If the person is a minor, and you do not have the legal authority to file a complaint on the student's behalf, the signature of the child's parent or legal guardian is required.

**Last Name, First, Middle** Murphy, Alice  
**Address:**   
**City, State, Zip Code:**  
**Home/Work Telephone:**  
**Email Address:**

3. OCR investigates discrimination complaints against institutions and agencies which receive funds from the U.S. Department of Education and against public educational entities and libraries that are subject to the provisions of Title II of the Americans with Disabilities Act. Please identify the institution or agency that engaged in the alleged discrimination. If we cannot accept your complaint, we will attempt to refer it to the appropriate agency and will notify you of that fact.

**Name of Institution:** Brigham Young University (BYU)  
**Address:** NA  
**City, State, Zip Code:** Provo, UT 84602  
**Department/School:** Administration

4. The regulations OCR enforces prohibit discrimination on the basis of race, color, national origin, sex, disability, age or retaliation. Please indicate the basis of your complaint:

- ☐ Discrimination based on sex (specify)

Discrimination on the basis of sexual orientation and gender identity

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5. Please describe each alleged discriminatory act. For each action, please include the date(s) the discriminatory act occurred, the name(s) of each person(s) involved and, why you believe the discrimination was because of race, disability, age, sex, etc. Also please provide the names of any person(s) who was present and witnessed the act(s) of discrimination.

Alice worried about getting kicked out, losing her scholarship, or facing disciplinary actions if BYU discovered that Alice is a member of the LGBTQ community. Alice also fears getting kicked out of BYU-approved housing. Please see attached declaration.

6. What is the most **recent date** you were discriminated against?

Date: Current, Ongoing

7. If this date is **more than 180 days ago**, you may request a waiver of the filing requirement.

X I am requesting a waiver of the 180-day time frame for filing this complaint.

Please explain why you waited until now to file your complaint.

- 1) the Covid-19 pandemic;
- 2) The Trump administration's policies and statements about religious exemptions to Title IX;
- 3) The Trump administration's policies and statements about Title IX not prohibiting discrimination on the basis of sexual orientation or gender identity.
- 4) Although the initial act of discrimination took place more than 180 days ago, Alice's complaint should not be considered time-barred because BYU continues to discriminate against Alice and to promulgate policies and practices that discriminate against LGBTQ+ students.

8. Have you attempted to resolve these allegations with the institution through an internal grievance procedure, appeal or due process hearing?

No

If you answered **yes**, please describe the allegations in your grievance or hearing, identify the date you filed it, and tell us the status. If possible, please provide us with a copy of your grievance or appeal or due process request and, if completed, the decision in the matter.

Not applicable



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9. If the allegations contained in this complaint have been filed with any other Federal, state or local civil rights agency, or any Federal or state court, please give details and dates. We will determine whether it is appropriate to investigate your complaint based upon the specific allegations of your complaint and the actions taken by the other agency or court.
10. If we cannot reach you at your home or work, we would like to have the name and telephone number of another person (relative or friend) who knows where and when we can reach you. This information is **not required**, but it will be helpful to us.

Not applicable

11. What would you like the institution to do as a result of your complaint — what remedy are you seeking?

Alice would like BYU's policies amended to state that (1) same-sex dating relationships and displays of affection will be treated by BYU in the same manner as opposite-sex dating relationships and displays of affection; (2) students will not be punished for coming out as LGBTQ+ or for expressing their sexual or gender identity (through pronouns, clothing, hair, makeup, etc.); (3) BYU will not encourage or facilitate conversion therapy or any other sexual or gender orientation change efforts; (4) students who report sexual or physical assault will be granted safe harbor from discipline relating to sexual activity or other code of conduct violations; and (5) BYU's non-discrimination policy includes sexual orientation and gender identity as applied to all aspects of BYU including housing and other programs.

12. We cannot accept your complaint if it has not been signed. Please sign and date your complaint below.

02/11/2021

(Date)

Nov 2, 2021

(Date)

 Type text here

(Signature)

/s/ Alice Murphy

(Signature of person in Item 2)



3. I was formerly a student at Brigham Young University - Provo.
4. I am 19 years old.
5. I am a member of the LGBTQ+ community and use she/Xyr pronouns.
6. I attended BYU from the fall semester of 2020 through the spring semester of 2021.
7. I grew up a member of the Church of Jesus Christ of Latter-Day Saints ("LDS").
8. One of my parents is a professor at BYU and I received half-cost tuition if I attended school there.
9. I had a lot of parental pressure to attend BYU as my parents said it was better than any of the other schools I was considering, because I could receive half off of tuition, and because one of my parents is a professor there.
10. In the spring of 2021 I began to feel uncomfortable at BYU.
11. In my classes, students made lots of anti-LGBTQ comments which were really rude to the community. Some professors tried their best to get them to knock it off, others didn't seem to care and seemed to honestly agree.
12. There were a couple of demonstrations on campus that got quickly shut down. It was really discouraging, and it was difficult and discouraging to kids like me who are closeted.
13. I didn't feel like I was able to be myself. I stayed in the closet and was quiet about everything.
14. I was worried about getting kicked out, losing my scholarship, or facing disciplinary actions. I was worried about other students being negative and rude. I had seen their opinions, and if they knew I was a member of the LGBTQ+ community they wouldn't have taken kindly to that.

15. I decided to transfer to a smaller university beginning fall of 2021 because of all these worries. It was expensive because I was not able to get any scholarships. It is pretty hard and my parents did not understand.

16. I was not out to my family when I left BYU. I only recently came out to my parents and extended family. There has been a lot of backlash and confusion.

17. I currently face fear of being kicked out of my apartment, as I live in BYU-approved housing.

18. The current housing policies discriminate against me because of my sexual orientation. I am fearful to put up my pride flags.

19. I want to share my story but can only do so anonymously because of what I have stated here previously.

20. I have been a federal taxpayer.

Pursuant to 28 U.S.C. §1746, I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed this 28th day of October, 2021.

By: /s/ Alice Murphy  
Alice Murphy





UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

1244 SPEER BLVD., SUITE 310  
DENVER, CO 80204-3582

REGION VIII

ARIZONA  
COLORADO  
NEW MEXICO  
UTAH  
WYOMING

May 24, 2022

Lauren Swain  
Administrative Assistant/Paralegal REAP  
Paul Southwick Law, LLC  
8532 N. Ivanhoe St., # 208  
Portland, OR 97203

*By email only to [lauren@paulsouthwick.com](mailto:lauren@paulsouthwick.com)*

Re: OCR Complaint No. 08-22-2039  
Brigham Young University

Dear Ms. Swain:

On November 2, 2021, the United States Department of Education (Department), Office for Civil Rights (OCR) received your complaint against Brigham Young University in Provo, Utah (the University). You filed the complaint initially on behalf of a named client. On February 17, 2022, you asked OCR to replace your initial complaint with a redacted complaint, noting that the named client was a pseudonym and that this pseudonymous complainant revokes their previously submitted consent form to OCR. You added that they do not consent to the disclosure of their true identity or other personal information at this time.

The redacted complaint alleges that the University discriminated against the pseudonymous complainant on the basis of sexual orientation and gender identity while enrolled at the University in the fall semester of 2020 through the spring semester of 2021. Specifically, the complaint alleges that the complainant was worried about “getting kicked out, losing [their scholarship], or facing disciplinary actions” if the University discovered that the complainant was a member of the LGBTQ community. The complaint also alleges that the former University student fears “being kicked out” of their current University-approved housing.

OCR enforces Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. §§ 1681 - 1688, and its implementing regulation at 34 C.F.R. Part 106, which prohibit discrimination on the basis of sex in any education program or activity operated by a recipient of Federal financial assistance. As a recipient of Federal financial assistance from the Department, the University is subject to Title IX. Title IX and its implementing regulations contain several exemptions and exceptions from its coverage. See 20 U.S.C. §§ 1681(a)(1)-(9); 34 C.F.R. §§ 106.11-106.15.

After carefully reviewing the information you provided, OCR determined that it is dismissing your complaint. OCR explains its decision in further detail below.

Pursuant to Section 108(f) of OCR's *Case Processing Manual* (CPM),<sup>1</sup> OCR must dismiss a complaint if it determines that it does not have subject matter jurisdiction over the complaint.

By letter to the Assistant Secretary for Civil Rights dated November 19, 2021, the University requested an assurance of exemption from the application of Title IX and its implementing regulation. By letter dated January 3, 2022, the Assistant Secretary for Civil Rights assured the University of its exemption from certain of the Title IX regulatory provisions to the extent that application of the provisions conflict with the religious tenets of its controlling religious organization that pertain to sexual orientation and gender identity:

- 34 C.F.R. § 106.21 (admission)
- 34 C.F.R. § 106.22 (preference in admission)
- 34 C.F.R. § 106.23 (recruitment)
- 34 C.F.R. § 106.31 (education programs or activities)
- 34 C.F.R. § 106.32 (housing)
- 34 C.F.R. § 106.33 (comparable facilities)
- 34 C.F.R. § 106.34 (access to classes and schools)
- 34 C.F.R. § 106.36 (counseling)
- 34 C.F.R. § 106.37 (financial assistance)
- 34 C.F.R. § 106.38 (employment assistance to students)
- 34 C.F.R. § 106.39 (health and insurance benefits and services)
- 34 C.F.R. § 106.40 (marital or parental status)
- 34 C.F.R. § 106.41 (athletics)
- 34 C.F.R. § 106.43 (standards for measuring skill or progress in physical education classes)
- 34 C.F.R. § 106.51-61 (relating to employment)

Because the University is exempt from the above-referenced regulatory provisions of Title IX to the extent that their application conflicts with the religious tenets of its controlling religious organization that pertain to sexual orientation and gender identity, OCR lacks jurisdiction to address the allegations in your complaint. Accordingly, OCR is dismissing your complaint pursuant to Section 108(f) of the CPM.<sup>2</sup>

OCR also would like to make you aware that individuals who file complaints with OCR may have the right to file a private suit in federal court whether or not OCR finds a violation.

This letter sets forth OCR's determination in an individual OCR case. This letter is not a formal statement of OCR policy and should not be relied upon, cited, or construed as such. OCR's formal policy statements are approved by a duly authorized OCR official and made available to the public.

<sup>1</sup> See CPM (Aug. 26, 2020) at <https://www2.ed.gov/about/offices/list/ocr/docs/ocrcpm.pdf>.

<sup>2</sup> We also note that the Title IX regulation about housing cited above does not apply to former students of the recipient like your client.



Please be advised that the University must not harass, coerce, intimidate, discriminate, or otherwise retaliate against an individual because that individual asserts a right or privilege under a law enforced by OCR or files a complaint, testifies, assists, or participates in a proceeding under a law enforced by OCR. If this happens, the individual may file a separate retaliation complaint with OCR.

Under the Freedom of Information Act, it may be necessary to release this document and related correspondence and records upon request. If OCR receives such a request, we will seek to protect, to the extent provided by law, personally identifiable information that could reasonably be expected to constitute an unwarranted invasion of personal privacy.

If you have any questions, you may contact Stephen Worthington, the OCR attorney assigned to this case, at (303) 844-3682 or [stephen.worthington@ed.gov](mailto:stephen.worthington@ed.gov).

Sincerely,

Sandra J. Roesti  
Supervisory Attorney

**Re: OCR Case 08-22-2039**

Lauren Swain <lauren@paulsouthwick.com>

Thu 5/26/2022 3:03 PM

To: Worthington, Stephen <Stephen.Worthington@ed.gov>

Mr. Worthington,

Thank you for this notification.

Is the complainant, Alice Murphy, permitted to appeal?

Lauren Swain

**Lauren Swain**

**Administrative Assistant/Paralegal REAP**

**Paul Southwick Law, LLC**

**[lauren@paulsouthwick.com](mailto:lauren@paulsouthwick.com)**



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**From:** Worthington, Stephen <Stephen.Worthington@ed.gov>

**Sent:** Tuesday, May 24, 2022 7:22 AM

**To:** Lauren Swain <lauren@paulsouthwick.com>

**Subject:** OCR Case 08-22-2039

Dear Ms. Swain:

Please find attached a letter explaining the outcome of your civil rights complaint against Brigham Young University (OCR Case 08-22-2039).

Thank you,

**Stephen Worthington**

*(he/him/his)*

Attorney | U.S. Department of Education, Office for Civil Rights

OCR Denver Office | 1244 Speer Boulevard, Suite 310 | Denver, CO 80204 | (303) 844-3682 | [stephen.worthington@ed.gov](mailto:stephen.worthington@ed.gov)

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**RE: OCR Case 08-22-2039**

Worthington, Stephen <Stephen.Worthington@ed.gov>

Fri 5/27/2022 1026 AM

To: Lauren Swain <lauren@paulsouthwick.com>

Ms. Swain,

In this case, OCR's dismissal is not appealable. OCR only affords an opportunity for a complainant to appeal a dismissal when the dismissal is based on subsections 108(a), -(b), -(c), -(d), -(i), or -(j) of OCR's *Case Processing Manual* (CPM). Because this complaint was dismissed under CPM subsection 108(f), it cannot be appealed.

You may read more about OCR's appeal process in Section 307 of the [Case Processing Manual](#).

Stephen Worthington

(he/him/his)

Attorney | U.S. Department of Education, Office for Civil Rights

OCR Denver Office | 1244 Speer Boulevard, Suite 310 | Denver, CO 80204 | (303) 844-3682 | [stephen.worthington@ed.gov](mailto:stephen.worthington@ed.gov)

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**From:** Lauren Swain <lauren@paulsouthwick.com>

**Sent:** Thursday, May 26, 2022 4:04 PM

**To:** Worthington, Stephen <Stephen.Worthington@ed.gov>

**Subject:** Re: OCR Case 08-22-2039

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Mr. Worthington,

Thank you for this notification.

Is the complainant, Alice Murphy, permitted to appeal?

Lauren Swain

[Lauren Swain](mailto:lauren@paulsouthwick.com)

**Administrative Assistant/Paralegal REAP**

**Paul Southwick Law, LLC**

[lauren@paulsouthwick.com](mailto:lauren@paulsouthwick.com)

EXHIBIT 1

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